

From: [Will Reinken](#)
To: [Scaffidi, Stephanie](#)
Cc: [Kevin Morris](#); [Richard Eaton](#)
Subject: Re: [External] Triple Canopy, 27-UC-322333
Date: Friday, August 11, 2023 3:39:54 PM
Attachments: [image001.png](#)

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No argument here, please accept this as SOAA's request to withdraw the petition.

Will

On Fri, Aug 11, 2023 at 10:12 AM Scaffidi, Stephanie <Stephanie.Scaffidi@nlrb.gov> wrote:

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Thank you, Mr. Morris.

The Board described the purpose of unit clarification proceedings in *Union Electric Co.*, 217 NLRB 666 (1975):

Unit clarification, as the term itself implies, is appropriate for resolving ambiguities concerning the unit placement of individuals who, for example, come within a newly established classification of disputed unit placement or, within an existing classification which has undergone recent, substantial changes in the duties and responsibilities of the employees in it so as to create a real doubt as to whether the individuals in such classification continue to fall within the category – excluded or included – that they occupied in the past. Clarification is not appropriate, however, for upsetting an agreement of a union and employer or an established past practice of such parties concerning the unit placement of various individuals, even if the agreement was entered into by one of the parties for what it claims to be mistaken reasons or the practice has become established by acquiescence and not express consent.

In *Libby-Owens-Ford Co.*, 189 NLRB 869 (1971), the petitioner represented a multi-plant unit, as well as several single-plant units, and it sought to use UC proceedings to absorb the single-plant units into the multi-plant unit. The Board dismissed the petition, reasoning that unit scope, rather than representation, was at issue, that there was no statutory authority for permitting employees to decide which contract unit they wished, and that it was left to the parties to decide whether to merge the single-facility units into the larger multi-plant unit (unless the choice of a bargaining representative is an issue). In doing so, the majority relied on the dissenting opinion in *Libby-Owens-Ford Glass Co.*, 169 NLRB 126 (1968). See also *PPG Industries*, 180 NLRB 477 (1969).

Based on the foregoing, I don't believe a UC proceeding is the appropriate vehicle for merging separately represented units. **Accordingly I request that the Petitioner submit argument and case authority that supports processing the UC petition herein by August 18, 2023.**

Thanks,

Stephanie

From: Kevin Morris <Kevin.Morris@constellis.com>

Sent: Thursday, August 10, 2023 5:21 PM

To: Scaffidi, Stephanie <Stephanie.Scaffidi@nrlb.gov>; Richard Eaton <Richard.Eaton@constellis.com>; William Reinken <wreinken@cwa-union.org>

Subject: RE: [External] Triple Canopy, 27-UC-322333

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Dear Ms. Scaffidi:

The Employer is not necessarily opposed to an eventual merger of the units but is not aware of how the instant UC petition could lawfully achieve such now. There are currently separate CBAs in effect for the units, both with terms running through May 31, 2024. There are two separate bargaining units with separate NLRB certifications and separate terms and

conditions of employment. As a federal contractor, Triple Canopy's CBAs also act as separate wage determinations per the Service Contract Act. Triple Canopy wants to maintain the validity of each CBA during the current Government contract year which runs through May 31, 2024. If one CBA were to become void or deemed no longer valid during the contract year, Triple Canopy has concerns regarding how that would affect the Government's position as far as recognizing the separate economic benefits in the CBAs as the respective wage determinations for employees in the respective units. I have discussed this with Union counsel. I would think there must be some mechanism on the union side (vote, etc.) to show the employees in the separate units agreed to be merged into one unit before Triple Canopy could legally recognize just that unit after expiration of the current CBAs. As far as Triple Canopy is concerned, that is an internal union matter at this stage and not appropriate for a UC petition now.

Happy to discuss.

Regards,



KEVIN J. MORRIS

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From: Scaffidi, Stephanie <Stephanie.Scaffidi@nlrb.gov>

Sent: Thursday, August 10, 2023 5:38 PM

To: Kevin Morris <Kevin.Morris@constellis.com>; Richard Eaton <Richard.Eaton@constellis.com>; William Reinken <wreinken@cwa-union.org>

Subject: [External] Triple Canopy, 27-UC-322333

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Dear Parties,

I have been assigned to the referenced petition. The petition indicates that the Union is seeking to merge two separate units into one single unit. It is my understanding that separate collective bargaining agreements for each unit are currently in effect.

Please provide your position on the petition and confirm whether the units are in the midst of a contract term by August 16, 2023.

Thanks,

Stephanie Stroup Scaffidi

Field Examiner

National Labor Relations Board – Region 27 Denver

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